

# Chapter 8

## Why Nuclear Cooperation Agreements Need “Gold Standard” Protection

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It has always been clear that if we are going to spread nuclear power plant technology worldwide, we have to make sure it won't lead to bombmaking. With time we learned that this was harder to do than we at first thought. We've had to upgrade requirements that countries had to meet to provide reasonable assurance that their nuclear activities were strictly peaceful. The upgrades didn't come easy, as enthusiasts for nuclear energy export both in and out of government tried to preserve the status quo. The question of how much protection is needed is now coming to a head again, this time over a proposed U.S.-Saudi nuclear cooperation agreement: The issue is whether the agreement should contain a ban on nuclear fuel technologies whose possession would put the Saudis within easy reach of a bomb.

A confluence of U.S. industry figures and Middle East and nuclear “experts” in government and academic think tanks, some with ties to Saudi Arabia, are vigorously campaigning against inclusion of such a ban (the so-called “Gold Standard” of nonproliferation protection). They argue it would offend the “proud” Saudis to our commercial disadvantage and loss of political influence, and that the old form of nuclear agreement is good enough.<sup>1</sup> The outcome of this dispute will set the course for future nuclear agreements and will profoundly affect worldwide protection against proliferation.

A bit of nonproliferation history helps understand why experience dictates the need for the Gold Standard. When we started nuclear exports under President Eisenhower's Atoms for Peace program, we relied mainly on customers' pledges to avoid military applications. We needed to back them up with inspection. Upon the creation of the International Atomic Energy Agency in 1957, we required in our agreements for cooperation that Agency inspections apply to all our nuclear exports.

The 1970 Nonproliferation Treaty required members to accept “comprehensive” IAEA inspection on all their domestic nuclear facilities. But, so long as the individual exports were covered by IAEA inspections, it did not bar exports to non-members who have uninspected nuclear facilities. It was not until Congress passed the 1978 Nuclear Nonproliferation Act, over the strong objections of the export lobby, that U.S. agreements for cooperation incorporated the requirement that customers submit to IAEA inspection on *all* their nuclear activities.

But even intensive comprehensive IAEA inspection could not guarantee exclusively “peaceful” use of stockpiles of fuels that were also nuclear explosives—highly enriched uranium and plutonium. They could be put

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1. For example, see, “Letter to Congress from Nonproliferation Experts Supports Nuclear Energy Cooperation with Saudi Arabia,” April 25, 2018, available from <https://www.nuclearinnovationalliance.org/single-post/2018/04/25/Letter-to-Congress-from-Nonproliferation-Experts-Supports-Nuclear-Energy-Cooperation-with-Saudi-Arabia>.

to weapon use almost immediately. Clearly, nonproliferation protection required restriction on uranium enrichment (think centrifuges) and reprocessing of irradiated fuel to extract plutonium. The opponents of such restrictions, including the current defenders of the Saudis, point to NPT language that gives members “the inalienable right” to use nuclear energy for peaceful purposes “without discrimination.” But this language is immediately followed by “in conformity with Articles I and II of this Treaty.” These are the basic prohibitions on the spread of the bomb, and in a nonproliferation treaty have to override the permissive language.

The NPT makes no sense if all countries have the right to come within arm’s length of a bomb. U.S. Supreme Court Justice Robert Jackson once wrote in defense of public safety that the Constitution is not a suicide pact. Well, neither can we allow the NPT to become one.

The Saudi case is particularly sensitive as the Crown Prince recently stated that if Iran got a bomb, Saudi Arabia would definitely do so, too.<sup>2</sup> The Saudis seem particularly attracted to centrifuge enrichment. They have no commercial need for this, as there is a thriving enrichment market and lots of excess world capacity. Our agreements for cooperation generally require that a country obtain U.S. permission to further enrich U.S.-supplied uranium fuel, and we and other major suppliers don’t sell enrichment technology. But there are illicit sources. To keep a country from acquiring and operating a centrifuge plant, it is necessary, at a minimum, to obtain a clear promise that it will not do so—ergo, the gold standard. This standard was accepted by the Saudis’ neighbor, the United Arab Emirates. If the Saudis balk at it, then we know what they are up to.

The Saudi partisans blow smoke in other ways. It’s unfair, they say, for the Saudi agreement to ban enrichment when the international deal with their arch-enemy, Iran, has not completely shut down its enrichment program. But these are completely different compacts dealing with different circumstances. We don’t have any agreement for cooperation with Iran. The focus should now be on backing Iran off further, not expanding the circle of countries with easy access to nuclear weapons.

Then there is the scare talk that the Saudis may buy power reactors from Russia and China and thereby undermine American influence in the region. But neither Russia nor China are going to get the Saudi contracts. The irony is that neither will Westinghouse, the firm backed by the Trump administration (which apparently doesn’t know Westinghouse is no longer an American-owned company). The Saudi contracts will almost certainly go to South Korea.<sup>3</sup>

It has to be added that Congress, which can reject the administration proposal, should insist on the gold standard not only to provide needed defense against countries being tempted to toy with weapons options, but also to protect against the well-documented tendency of our own government to weaken nonproliferation standards for putative transitory commercial and political gains. The State Department is especially adept at rationalizing that doing so will still maintain the “functional equivalent” of the original provision. It never does. We need the gold standard.

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2 See, Norah O’Donnel, “Saudi Arabia’s Heir to the Throne Talks to 60 Minutes,” *CBS*, March 19, 2018, available from <https://www.cbsnews.com/news/saudi-crown-prince-talks-to-60-minutes/>.

3. See, Victor Gilinsky and Henry Sokolski, “Facing reality in the US-Saudi nuclear agreement: South Korea,” *Bulletin of the Atomic Scientists*, April 10, 2018, available from <https://thebulletin.org/facing-reality-us-saudi-nuclear-agreement-south-korea11683>.